IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.262 OF 2007

Smt.Nitu Chhotu Panjwani
and 2 Ors. ...Petitioners.

Versus

The State of Maharashtra
and Anr. ...Respondents.

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Mr.Santosh Chari, Advocate for the Petitioners.
Mr.Rajesh More, APP, for State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 26th February, 2007.

P.C.:

1. Heard the learned Advocate for the petitioners-orig.complainants and the learned APP for the State.

2. The petitioners i.e. original complainants had filed six cases against respondent No.2 under Section 138 of N.I.Act before the learned Metropolitan Magistrate, Girgaum, Mumbai. In addition thereto petitioner No.1 had filed another case against respondent No.2 under section 420 of IPC. The said case was pending before the same

Court. However, on account of establishment of Special Courts to try offences under Section 138 of N.I.Act, those six cases were transferred to learned Metropolitan Magistrate, 14th Court, Girgaum, Mumbai. Respondent No.2 preferred an application before the learned Chief Metropolitan Magistrate to transfer these cases to any one Court. The said application was rejected by order dated 28.11.2005 as 14th Court was a Special Court for cases under N.I.Act and hence there was no Assistant Public Prosecutor in that Court for trying case under section 420 of IPC and as 4th Court was not a Special Court for cases under N.I.Act, the six cases under N.I.Act could not be transferred to 4th Court.

3. Being aggrieved thereby, respondent No.2 challenged the same before the Sessions Court. The Sessions Court by order dated 20.12.2005 rejected the said application.

4. The learned Advocate for the petitioners has stated that earlier an application had been preferred by respondent No.2 for transfer of cases under section 138 of N.I.Act from 4th Court,

Girgaum to 14th Court, Girgaum where case under Section 420 IPC was pending. The said prayer was rejected by the learned Chief Metropolitan Magistrate by order dated 31.8.2004. By the said order the case under section 420 IPC was transferred from 14th Court to 4th Court, Girgaum where cases under section 138 of N.I.Act were pending.

5. Thereafter the Special Courts were formed for cases under Section 138 of N.I.Act on account of the Office Order No.ESTT/183 OF 2005 dated 9th February, 2005. The respondent No.2 again made an application for transfer of all cases to one Court wherein order dated 28.11.2005 came to be passed by the learned Chief Metropolitan Magistrate. By the said order the application for transfer of the cases to one Court came to be rejected. In the said order, the learned Chief Metropolitan Magistrate ordered that the cases under Section 138 of N.I.Act pending in 14th Court be tried by 14th Court and the case bearing No.344/P/2003 pending in 4th Court be tried by 4th Court, Girgaum, Mumbai.

6. Being aggrieved by the said order, respondent No.2 approached the Sessions Court. The said application came to be rejected by the Sessions Court by order dated 20th December, 2005. Thereafter, the petitioner came to know that all the cases under Section 138 of N.I.Act were all of a sudden transferred from 14th Court to 4th Court on account of some confidential letter dated 23rd January, 2006 sent by the learned Chief Metropolitan Magistrate and all the said cases were ordered to be clubbed with Police case No.344/P/2003. On account of this, the petitioner moved an application dated 25th January, 2007 for the certified copy of the said confidential letter dated 23rd January, 2006. The said application was moved before the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaum, Mumbai. The said application came to be disposed of by order dated 25th January, 2007 wherein it is stated that the order is confidential, hence copy cannot be furnished. Being aggrieved by this order, the petitioner has approached this Court.

7. The learned Advocate for the petitioners has made a grievance that the learned M.M. had

issued order for clubbing the aforesaid cases on basis of confidential letter No.A/Confi/155/2006. He had made an application for a copy of the said order. However, the learned Magistrate by order dated 25.1.2007 did not furnish copy of the said order on the ground that as it is a confidential one, hence copy cannot be furnished. As far as the order dated 31.8.2004 is concerned, the petitioners have not challenged the same at any point of time. Moreover, despite repeated queries made to the learned Advocate for the petitioners, he has not been able to point out any prejudice caused to the petitioners on account of the cases being transferred to the Court of another learned Metropolitan Magistrate in Girgaum itself. Both Court Nos.4 and 14 are in the same building. Hence, there is no question of inconvenience to any of the parties.

8. On the basis of the above facts, no case is made out for interference. Hence, Writ Petition is rejected.

(SMT.V.K.TAHILRAMANI,J.)